

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA) 2:19-cr-00350-JD-1
Plaintiff,) 2:19-cr-00350-JD-2
vs.) 2:19-cr-00350-JD-3
) Philadelphia, PA
DONNIE SMITH, ABID)
STEVENS AND MAURICE QUINN) February 4, 2020
Defendant.) 2:03 p.m. - 3:52 p.m.
JURY TRIAL (VERDICT) - DAY SEVEN
BEFORE THE HONORABLE JAN E. DUBOIS,
UNITED STATES DISTRICT JUDGE

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1 P R O C E E D I N G S

2 THE COURT: You may be seated, everyone.

3 We were advised a very short time ago, could
4 be 30 minutes ago, that the jury had reached a
5 unanimous verdict. Is there anything we need to do
6 before we call the jury into the courtroom?

7 MR. ECKERT: Not from the government, Your
8 Honor.

9 THE COURT: I think not.

10 MR. PATTERSON: No, Your Honor.

11 MR. WITTELS: No, Your Honor.

12 THE COURT: Ms. Meehan?

13 MS. MEEHAN: No, Your Honor.

14 THE COURT: Ms. Hull?

15 THE CLERK: I just need one moment, Your
16 Honor.

17 (Pause)

18 THE CLERK: All rise.

19 (Jury in)

20 THE COURT: Be seated, everyone.

21 The jury advised me a very short time ago
22 that they had reached a unanimous verdict. Before we
23 receive the verdict, I want to file the waiver of
24 determination of forfeiture by jury that was executed
25 by each defendant, Donnie Smith and his attorney, Abid

1 Stevens and his attorney and Maurice Quinn and his
2 attorney. Those waivers will be filed of record.

3 And now, ladies and gentlemen, I understand
4 you've reached a unanimous verdict with respect to the
5 three defendants. Is that correct?

6 THE FOREPERSON: That's correct, Your Honor.

7 THE COURT: Is Ms. -- yes. Ms. Hull is in
8 the courtroom. Will you receive the verdict sheet,
9 please? Bring the verdict sheet. Thank you.

10 (Pause)

11 THE COURT: I have read the verdict sheets
12 and they were completed in accordance with my
13 instructions. I return them, Ms. Hull. Ms. Hull, let
14 the verdicts be published.

15 THE CLERK: Will the members of the jury
16 please rise? And will the foreperson please answer?

17 The jury unanimously agrees to the following
18 verdict for Count I and II of the indictment as to
19 Defendant Donnie Smith.

20 On Count I of the indictment charging robbery
21 which interferes with interstate commerce and aiding
22 and abetting on or about March 22nd, 2019, we, the jury
23 unanimously find the defendant Donnie Smith guilty or
24 not guilty?

25 THE FOREPERSON: Guilty.

1 THE CLERK: On Count II of the indictment
2 charging using, carrying a firearm during and in
3 relation to a crime of violence, and aiding and
4 abetting on or about March 22nd, 2019, you, the jury,
5 unanimously find the defendant Donnie Smith guilty or
6 not guilty?

7 THE FOREPERSON: Guilty.

8 THE CLERK: As to the jury interrogatory, do
9 you unanimously find that the government proved beyond
10 a reasonable doubt that Donnie Smith brandished a
11 firearm when committing this offense? Yes or no?

12 THE FOREPERSON: Yes.

13 THE CLERK: The jury unanimously agrees to
14 the following verdict for Counts I and II of the
15 indictment as to Defendant Abid Stevens. On Count I of
16 the indictment charging robbery which interferes with
17 interstate commerce and aiding and abetting on or about
18 March 22nd, 2019, you, the jury, unanimously find the
19 defendant Abid Stevens guilty or not guilty?

20 THE FOREPERSON: Guilty.

21 THE CLERK: On Count II of the indictment
22 charging using and carrying a firearm during and
23 relation to a crime of violence and aiding and abetting
24 on or about March 22nd, 2019, you, the jury,
25 unanimously find the defendant Abid Stevens guilty or

1 not guilty?

2 THE FOREPERSON: Guilty.

3 THE CLERK: As to the jury interrogatory, do
4 you unanimously find that the government proved beyond
5 a reasonable doubt that Abid Stevens brandished a
6 firearm when committing this offense? Yes or no?

7 THE FOREPERSON: Yes.

8 THE CLERK: The jury unanimously agrees to
9 the following verdict for Counts I and II of the
10 indictment as to Defendant Maurice Quinn. On Count I
11 of the indictment charging robbery which interferes
12 with interstate commerce and aiding and abetting on or
13 about March 22nd, 2019, you, the jury, unanimously find
14 the defendant Maurice Quinn guilty or not guilty?

15 THE FOREPERSON: Guilty.

16 THE CLERK: On Count II of the indictment
17 charging using and carrying a firearm during and in
18 relation to a crime of violence and aiding and abetting
19 on or about March 22nd, 2019, you, the jury,
20 unanimously find the defendant Maurice Quinn guilty or
21 not guilty?

22 THE FOREPERSON: Guilty.

23 THE CLERK: As to jury interrogatory, do you
24 unanimously find that the government proved beyond a
25 reasonable doubt that Maurice Quinn brandished a

1 firearm when committing this offense? Yes or no?

2 THE FOREPERSON: No.

3 THE CLERK: Thank you. You may be seated.

4 THE COURT: The jury foreperson initialed
5 each of the --

6 THE FOREPERSON: Yes.

7 THE COURT: -- verdict sheets. I'd like you
8 to add your last name after that initial.

9 THE FOREPERSON: Sure.

10 THE COURT: So, Ms. Hull, will you return the
11 originals of the three verdict sheets to the foreperson
12 so that he can completely sign his name. He's
13 initialed his name.

14 THE CLERK: This (indiscernible) person
15 didn't have (indiscernible) a legal copy
16 (indiscernible) --

17 THE FOREPERSON: I have it.

18 THE COURT: You don't have to return them
19 then. Do you have a pen?

20 And the jury may be seated. And will you do
21 that now, sir?

22 THE FOREPERSON: Sure.

23 THE COURT: Do you have a pen?

24 THE FOREPERSON: I -- thank you.

25 (Pause)

1 THE COURT: Thank you. Are there any
2 requests from counsel?

3 MR. PATTERSON: No, Your Honor. Thank you.

4 MR. WITTELS: No, sir.

5 MS. MEEHAN: No, Your Honor.

6 MR. ECKERT: Not the government, Your Honor.

7 THE COURT: Thank you.

8 Ms. Hull, let the verdict be recorded.

9 THE CLERK: Members of the jury, please rise.

10 Harken unto your verdict as the Court has
11 recorded it and the issue joined in the indictment
12 number 19-350-01, 02 and 03 between the United States
13 of America and Donnie Smith, Abid Stevens and Maurice
14 Quinn.

15 You find Defendant Donnie Smith guilty as to
16 Count I. You find Defendant Donnie Smith guilty as to
17 Count II. And you answered jury interrogatory as it
18 relates to Count II, yes.

19 You found Defendant Abid Stevens guilty as to
20 Count I. You found Defendant Abid Stevens guilty as to
21 Count II. And you answered jury interrogatory as it
22 relates to Count II, yes.

23 And you found Defendant Maurice Quinn guilty
24 as to Count I. You found Defendant Maurice Quinn
25 guilty as to Count II. And you answered yes (sic) to

1 jury interrogatory as it relates to Count II. And so
2 say you all. Please affirm.

3 THE FOREPERSON: The last sentence --

4 MR. PATTERSON: Said no.

5 THE CLERK: Oh, I -- I simply apologize -- I
6 apologize. You said no. Thank you. You said no to
7 jury interrogatory Count II which would have found that
8 Defendant -- that government proved beyond a reasonable
9 doubt that Maurice Quinn brandished a firearm when
10 committing this offense. And you said no.

11 THE FOREPERSON: No. Correct.

12 THE CLERK: Thank you.

13 THE COURT: Thank you. You may be seated,
14 ladies and gentlemen.

15 Counsel, let's go to sidebar.

16 (Begin sidebar conference)

17 THE COURT: I think what we should do is
18 dismiss Mr. Wittels and Mr. Stevens and Ms. Meehan.
19 Mr. Quinn had a proceeding with respect to the third
20 count.

21 MR. PATTERSON: Yes. And, Your Honor, I
22 would just -- since we're up here at sidebar, I
23 (indiscernible) make a request for justification
24 (indiscernible) and we're okay with the instructions as
25 presented.

1 THE COURT: All right. How do you wish to
2 proceed on that? Do you think we should take a little
3 -- maybe a short --

4 MR. ECKERT: Yes.

5 THE COURT: -- recess.

6 MR. ECKERT: Maybe five or ten minutes if
7 that was the Court (indiscernible).

8 THE COURT: I'll explain to the jury that
9 there is a short proceeding. We'll file it with
10 respect to Donnie Smith (indiscernible) discharge.

11 MS. MEEHAN: Thank you, Your Honor.

12 THE COURT: The jury (indiscernible). We'll
13 resume in about 10 minutes.

14 MS. MEEHAN: Okay.

15 THE COURT: My thought is (indiscernible) to
16 explain to the jury what's happening and read the
17 statement of the case. And then you can proceed with
18 pretrial things. I have the original of the
19 stipulation that you signed. I have a document
20 (indiscernible), not at all.

21 MR. PATTERSON: I believe with the
22 stipulation that he's already a convicted felon.
23 (Indiscernible) what the government wants to do. I
24 mean, I could (indiscernible) statement of the case,
25 read the instructions and wait some (indiscernible)

1 unless you want to make an opening --

2 THE COURT: Well, that --

3 MR. ECKERT: Well, we just have to
4 (indiscernible) into the record.

5 THE COURT: Well, you've got to make certain
6 to address --

7 MR. ECKERT: Right.

8 THE COURT: How would you decide to address
9 the three elements?

10 MR. ECKERT: You know, 30 seconds long.

11 THE COURT: I think this proceeding should
12 take how long? I want to tell the jury.

13 MR. PATTERSON: Fifteen minutes. No longer
14 than --

15 MR. ECKERT: Fifteen to be safe.

16 THE COURT: The first element is the
17 conviction. And the third element is knowing of the
18 conviction.

19 MR. ECKERT: Right. That's right.

20 THE COURT: And the second element -- you
21 might need the first element of possession. That is
22 not of record.

23 MR. ECKERT: Right. I would just address
24 that in the opening on our case.

25 THE COURT: And how are you going to proceed

1 with that?

2 MR. PATTERSON: He stipulated to the first
3 element. And based upon --

4 THE COURT: And (indiscernible) --

5 MR. PATTERSON: Correct. It was not my
6 intention to basically address the jury on this issue.
7 My whole argument was that they didn't prove that the
8 gun he possessed was not a firearm but this is the
9 store gun. And my whole closing was that it was an
10 operational firearm. So I was not going to address the
11 jury at all.

12 And I would ask Your Honor if my client
13 wishes to waive his appearance at these proceedings, is
14 that possible?

15 THE COURT: No.

16 MR. PATTERSON: Okay.

17 THE COURT: Not at a trial, no. I'm not
18 going to deter to research that issue. And I'm sure
19 you (indiscernible).

20 MR. PATTERSON: I will withdraw it.

21 THE COURT: We're not doing that.

22 THE CLERK: The Court --

23 THE COURT: What?

24 THE CLERK: I was going to say that once you
25 dismiss the jury, do you still want to review --

1 THE COURT: I'm not going to dismiss them.
2 I'm going to excuse them to return to the --

3 THE CLERK: That's what I meant. And then do
4 you want to review the sentencing procedure with the
5 three defendants during that time?

6 THE COURT: Do I want to --

7 THE CLERK: Review the sentencing procedures
8 that pre-sentence report will be ordered before
9 dismissing defendants?

10 THE COURT: I've got to do that, yes.

11 All right. So that --

12

13 THE CLERK: That's it.

14 THE COURT: Then they stay, correct. Yes.
15 And that (indiscernible).

16 THE CLERK: Yeah. And I know when it
17 (indiscernible). About when --

18 THE COURT: I'll give the jury --

19 THE CLERK: -- (indiscernible) so I can
20 (indiscernible) quickly?

21 THE COURT: I'll give them a 30-minute break.

22 THE CLERK: Okay.

23 THE COURT: Fifteen minutes to address the
24 sentencing issues. Have you scheduled sentencing?

25 THE CLERK: I can do it in less than a

1 minute.

2 THE COURT: All right.

3 THE CLERK: (Indiscernible).

4 THE COURT: Okay. Great. And then 15
5 minutes resume.

6 MR. ECKERT: Sure. Thank you, Judge.

7 MR. PATTERSON: Thank you, Your Honor.

8 (End sidebar conference)

9 THE COURT: Your verdict, ladies and
10 gentlemen -- well, I'll wait till counsel is seated.

11 (Pause)

12 THE COURT: Your verdict ends the case as to
13 two of the three defendants, Defendant Stevens and
14 Defendant Quinn. But there is one very, very short
15 matter that has to be addressed with respect to
16 Defendant Smith.

17 What we're going to do now, I'm going to
18 schedule the sentencing for Defendants Stevens and
19 Quinn. And it shouldn't take very long; I'm going to
20 excuse you. And then we'll set the schedule -- and by
21 schedule, I mean we're going to do the procedure, the
22 final proceeding, rather, involving Defendant Quinn
23 (sic) in about, I would say, 15 or 20 minutes. That's
24 how long it will take. So we're talking about a
25 recess, I would say, of about 30 minutes. And then we

1 will have a brief statement from me, very brief
2 statements from counsel, and maybe not from both of
3 them, and presentations of documents and a very brief
4 charge covering this one very short -- I keep
5 overworking the word "brief" -- short brief proceeding
6 involving Defendant Smith.

7 So with that, I'm going to excuse you. It's
8 25 minutes after 2. I'm going to excuse you -- we'll
9 take a break for about 35 minutes till 3 o'clock. We
10 should be ready to proceed on this other matter very,
11 very soon. I would say 3 o'clock.

12 Michael?

13 THE REPORTER: All rise.

14 (Jury out)

15 THE COURT: All right. Be seated, everyone.

16 First, I'm going to schedule sentencing for
17 Defendants Stevens and Quinn. And I'll explain to them
18 what will follow.

19 Sentencing for Defendant Stevens, Wednesday,
20 May 20th, 2020 at 12:45 p.m. And for Defendant Quinn,
21 Thursday, May 21st, 2020 at 12:45 p.m.

22 What I will do now is direct the United
23 States probation office to conduct a pre-sentence
24 investigation. Among other things, the probation
25 officer will interview you. And I direct counsel, Mr.

1 Wittels and Ms. Meehan, to be present during that
2 interview. When the probation officer completes the
3 investigation, a pre-sentence report will be prepared.
4 It will cover a summary of the investigation and the
5 recommendations of the probation officer regarding the
6 applicable sentencing guidelines. The guidelines are
7 considered by the Court among many other factors in
8 deciding on an appropriate sentence.

9 At sentencing, each of you, Mr. Quinn, Mr.
10 Stevens, will have an opportunity to speak to me about
11 anything you deem appropriate. It's referred to as
12 your right of allocution. You may also present
13 evidence, testimony or witness submissions, letters or
14 affidavits, from people who hopefully would say good
15 things about you. And your attorneys will be able to
16 argue as to an appropriate sentence. The government
17 has those same rights.

18 When I hear everything presented on the day
19 of sentencing and read all of the written submissions,
20 then, and only then, will I be able to impose the
21 sentence that I believe to be fair under all of the
22 circumstances.

23 Are there any questions or comments from
24 defense counsel? Mr. Wittels?

25 MR. WITTELS: No, Judge.

1 THE COURT: Ms. Meehan?

2 MS. MEEHAN: No, Your Honor.

3 THE COURT: Mr. Eckert?

4 MR. ECKERT: Not from the government, Your
5 Honor. Thank you.

6 THE COURT: All right. I don't think
7 anything else needs to be done with respect to
8 Defendants Stevens and Quinn. So I'm going to excuse
9 them. We'll take a brief recess and then resume -- I
10 think we should resume with counsel, government
11 counsel, and you, Mr. Patterson, and you as well, Mr.
12 Smith, in about 10 minutes. We'll take a 10-minute
13 recess and then cover the details of this further
14 proceeding, how we're going to proceed. And get it --
15 start it as quickly as possible.

16 With that, we're in recess for 10 minutes.

17 THE CLERK: All rise.

18 (Recess from 2:29 p.m. until 2:39 p.m.)

19 THE COURT: Let's discuss the procedure we'll
20 follow with respect to Count III. Government first.

21 MR. ECKERT: Your Honor --

22 THE COURT: I'm sorry. Be seated, everyone.
23 I don't look up so I don't see that you're still
24 standing.

25 Yes?

1 (Pause)

2 THE COURT: Is Ms. Hull in the courtroom?

3 I'm just looking for the original of the --

4 MR. ECKERT: The judge was -- okay. Yeah, I
5 have it.

6 (Pause)

7 THE COURT: Yes, I have it.

8 (Whispered conversation)

9 THE COURT: Are you planning the way you'll
10 proceed, Mr. Eckert? I asked a question.

11 MR. ECKERT: Oh, I'm sorry. I did not
12 understand -- I did not hear the Court.

13 THE COURT: First of all, I'm looking at the
14 stipulation of the prior conviction. And it seems to
15 answer and supply the evidence for the first element of
16 the 922(g)(1) count and the third element. It states
17 that Defendant Donnie Smith has been convicted of a
18 felony that is a crime punishable by imprisonment for a
19 term exceeding one year. That's the first element.
20 And the stipulation also states -- and I'm quoting:
21 "and he had knowledge of this conviction". End of
22 quote. And that satisfies the third element and that
23 is, at the time the defendant possessed the firearm, he
24 knew he had been convicted of a crime punishable by
25 imprisonment for a term exceeding one year. That

1 leaves the second element to be proven.

2 Second -- I'm reading the second element --
3 that after this conviction, Donnie Smith knowingly
4 possessed the firearm described in Count III of the
5 indictment.

6 MR. ECKERT: Your Honor, we -- I'm sorry.

7 THE COURT: Go ahead.

8 MR. ECKERT: We would just, during our
9 opening and closing, ask the jury to recall the video
10 as well as the testimony from the police officers about
11 where the gun was located and we would rest on that.
12 We don't seek to present any additional evidence or
13 anything like that. We would just give a very, very
14 brief opening and closing, perhaps under a minute.

15 THE COURT: And they can rely certainly on
16 the evidence presented at the first part of the trial.

17 I note from the stipulation that the
18 conviction is to be evidenced by an exhibit, certified
19 copies of the conviction. Do you have that exhibit?

20 MR. ECKERT: I have a copy of the docket,
21 Your Honor. I did not plan on that going back with the
22 jury. It was just so that it would be in the record, I
23 would provide a copy to the Court. And, of course,
24 that's been turned over to --

25 THE COURT: No, no. The stipulation --

1 MR. ECKERT: Yes, sir.

2 THE COURT: -- that agrees --

3 MR. ECKERT: Right.

4 THE COURT: -- to establish his Counts I and
5 III says -- well, I'll just read the pertinent part:
6 "stipulation that he, Donnie Smith, has been convicted
7 of a felony within the meaning of Title 18 United
8 States Code, Section 922(g)(1)", and he had knowledge
9 of this conviction, Government Exhibit -- and there's a
10 blank for the exhibit number. "The certified copies of
11 the conviction are admitted into evidence in support of
12 this stipulated fact."

13 MR. ECKERT: Right, Your Honor. I would
14 respectfully request that that not go back to the jury
15 because there's things in there that would be
16 prejudicial such as the sentence he received -- oh, 60.
17 I'm sorry. I'm sorry. My co-counsel told me what --
18 we would mark it as 60.

19 THE COURT: All right.

20 MR. ECKERT: Thank you.

21 THE COURT: And do you have that stipulation
22 -- that -- I'm sorry -- that -- there's a
23 (indiscernible) connect.

24 MR. ECKERT: Yes.

25 THE COURT: I'm not telling you how to try

1 the case. There's a blank in the stipulation. You've
2 got to show me that exhibit.

3 MR. ECKERT: Right. It's -- may I approach,
4 Your Honor?

5 THE COURT: You may.

6 MR. PATTERSON: And I did receive them in
7 discovery, Your Honor.

8 (Pause)

9 THE COURT: This is not a certified copy.

10 MR. ECKERT: We'll get that provided, Your
11 Honor. I have it. I just didn't -- I don't have it
12 with me. So I'll try to -- we provided copies of the
13 certified conviction in discovery.

14 THE COURT: The only piece of evidence you
15 have to admit is the stipulation and a certified copy
16 of the conviction.

17 MR. ECKERT: Right, Your Honor.

18 THE COURT: And apparently, you don't have
19 the certified copy of the conviction.

20 MR. ECKERT: I neglected to bring it with me.
21 I will go get it or I can go down to the second floor
22 and ask -- and get a copy down there. But I didn't --
23 I apologize for the mishap.

24 THE COURT: Well, how do you want to handle
25 it? The jury is waiting. I told them we would resume

1 around 3 and we still got 15 minutes.

2 MR. ECKERT: I could certainly go back, Your
3 Honor. I did not plan -- I understand the stipulation
4 is drafted that way. I've never done it in that manner
5 where -- because it doesn't go back. I -- I'm not sure
6 why we entered into the record. But I can track down a
7 certified copy in 15 minutes.

8 Or the other option we could be -- we don't
9 -- to just delete the last sentence as to now delay
10 anyone. I don't think that it needs to be entered into
11 evidence. We would certainly -- since all parties are
12 agreeing that it's in existence, I don't believe that
13 we need to mention that in the stipulation.

14 THE COURT: Well, you're trying the case not
15 me. I'm the judge.

16 MR. ECKERT: Yes, Your Honor.

17 THE COURT: You tell me what you want to do.

18 MR. ECKERT: If it's okay with --

19 THE COURT: You can get out and you can get a
20 certified copy of the conviction on the second floor.

21 MR. ECKERT: Right. I -- I'll do that, Your
22 Honor.

23 THE COURT: Whatever you want to do. Why
24 don't you talk?

25 MR. ECKERT: May I?

1 (Pause)

2 MR. ECKERT: In the next 15 minutes, I will
3 present a certified copy, Your Honor. Absolutely.

4 MR. PATTERSON: And that's acceptable,
5 obviously.

6 THE COURT: Pardon me?

7 MR. PATTERSON: That's acceptable, obviously.

8 THE COURT: All right. Do you have a copy or
9 do I have the only copy?

10 MR. ECKERT: I do not have another copy, Your
11 Honor.

12 THE COURT: Pardon?

13 MR. ECKERT: No. I do. Copy for Mr.
14 Patterson.

15 THE COURT: And a copy for you to get
16 certified?

17 MR. ECKERT: Well, I would -- I have other
18 copies at the office.

19 MR. PATTERSON: And I have a copy --

20 THE COURT: I don't want you to run back to
21 the office. You've got to be back here.

22 MR. ECKERT: I understand.

23 THE COURT: See, we're going to try to finish
24 the case this week, hopefully today.

25 MR. ECKERT: I under --

1 THE COURT: I'm not looking to send this to
2 Washington for certification. I want to get it
3 certified or I want to have that portion of the
4 stipulation deleted.

5 MR. ECKERT: I understand the Court's
6 position.

7 THE COURT: Now tell me what you're going to
8 do.

9 MR. ECKERT: I'm going to take this copy down
10 to the second floor and ask that it be certified.

11 THE COURT: Fine. And then how are you going
12 to proceed? I'll read the statement in the case and
13 tell the jury what the elements are.

14 MR. PATTERSON: It was my --

15 THE COURT: Then you can open briefly. Is
16 that what you planned to do?

17 MR. ECKERT: It was, Your Honor.

18 MR. PATTERSON: I believe since it's going to
19 be very (indiscernible) that it's kind of a combined
20 opening and closing, the government would say their
21 statement. I'll make my statement. And then Your
22 Honor can read them the instructions and send them
23 back.

24 THE COURT: Yes. That's what I plan to do.

25 MR. ECKERT: That's fine with us, Your Honor.

1 THE COURT: All right. Well, I'll await your
2 return with the certified copy of the conviction. I'll
3 get off the bench. The only evidence, other than the
4 conviction, I think, is the stipulation.

5 MR. ECKERT: We agree with that, Your Honor.

6 MR. PATTERSON: That's correct, Your Honor.

7 THE COURT: All right. I'll recess then.
8 And then we'll -- there will be a conviction. The
9 elements are all admitted. And I'll schedule a
10 sentencing. We should be finished very quickly.

11 All right. We're in recess. You may go
12 about your business.

13 MR. ECKERT: Thank you, Your Honor.

14 THE REPORTER: All rise.

15 (Recess from 2:49 p.m. until 3:00 p.m.)

16 THE CLERK: All rise.

17 (Jury in)

18 THE COURT: Be seated, everyone.

19 A third count in the indictment was separated
20 from Counts I and II as is required under our rules.
21 And now we're going to have a very brief -- and you'll
22 see how brief in just a moment -- a very brief trial of
23 the third element, of the third count. The evidence,
24 for the most part, will be stipulated and it should
25 take no more than, I would say, five or ten minutes for

1 opening statements and five or ten minutes for
2 evidence. And that might be too long an estimate.

3 Let me tell you what the third count is all
4 about. It involves only one defendant, Donnie Smith.
5 The government has charged in the indictment that
6 Defendant Donnie Smith committed a third crime. The
7 indictment is not evidence. The government must prove
8 each and every essential element of that crime, the
9 third crime, the third count, charged beyond a
10 reasonable doubt.

11 Count III of the indictment charges that on
12 or about March 22nd, 2019 in Philadelphia,
13 Pennsylvania, Defendant Donnie Smith possessed in and
14 affecting interstate commerce a firearm and ammunition.
15 That is a Glock 26, 9 millimeter semiautomatic pistol
16 bearing serial number BCXX649 noted with eight live
17 rounds of ammunition having previously been convicted
18 in a court of the Eastern District of Pennsylvania and
19 the Commonwealth of Pennsylvania of a crime punishable
20 by imprisonment for a term exceeding one year and did
21 so knowingly in violation of 18 United States Code,
22 Section 922(g)(1).

23 In order to find Defendant Smith guilty of
24 this offense, you must find that the government proved
25 each of the following four elements beyond a reasonable

1 doubt:

2 First, that Donnie Smith had been convicted
3 of a felony. That is, a crime punishable by
4 imprisonment for a term exceeding one year;
5 Second, that after this conviction, Donnie Smith
6 knowingly possessed the firearm described in Count III
7 of the indictment. And I just identified that firearm.
8 It's also referred to as the "store gun" during this
9 trial;

10 Third, that at the time Defendant possessed the
11 firearm, he knew he had been convicted of a crime
12 punishable by imprisonment for a term exceeding one
13 year; and

14 Fourth, that Donnie Smith's possession was in or
15 affecting interstate commerce.

16 Now in deciding the case, you can consider
17 all of the evidence that was introduced in the first
18 trial, first part of the trial, and the additional
19 evidence that will be offered now.

20 All right. We'll begin in the same way as we
21 began part one of the trial with brief opening
22 statements.

23 MR. ECKERT: May I enter the well, Your
24 Honor?

25 THE COURT: Yes.

1 MR. ECKERT: Thank you.

2 Ladies and gentlemen of the jury, good
3 afternoon. Good afternoon.

4 The third count is just that Mr. Smith
5 possessed the store gun. The first element is, of
6 course, that he actually possessed it both in the store
7 and then when he left the store in the car when he fled
8 from the police.

9 The second element is that it actually was a
10 firearm. If you call, the gentleman from the
11 Philadelphia police department, the expert witness, he
12 testified that he took the store gun, he took that
13 firearm, he fired it into the tank and it was operable.

14 The third and fourth elements relate. That
15 is, that he has a qualifying felony conviction in the
16 Eastern District of Pennsylvania and that he had
17 knowledge of it. And there will be a stipulation to
18 that effect.

19 The last element is just that the gun
20 traveled in interstate commerce. That is, it was
21 manufactured in Austria and was imported into Georgia
22 and then recovered in Pennsylvania.

23 Thank you.

24 THE COURT: Mr. Patterson?

25 MR. PATTERSON: May it please the Court.

1 Counsel.

2 Ladies and gentlemen, the best thing is you
3 don't have to listen to me drone on for 50 minutes.
4 Basically, my client has agreed and he stipulated, and
5 the stipulation will be read to the jury, that he is a
6 convicted felon and he was convicted of a felony for a
7 crime punishable for a term of imprisonment exceeding
8 one year. And, two, that when he possessed the firearm
9 initially, he was aware of the conviction. That is
10 stipulated, too, and, again, that stipulation will be
11 read to you.

12 Once again, I want to thank the jury for
13 their consideration and attention and patience in this
14 case. And with respect to when you go back to
15 deliberate, I would just ask that you once again decide
16 this case based upon the oath you've taken as a jury
17 when you were sworn in and to decide this case based
18 upon the testimony, the evidence and the jury
19 instructions.

20 Thank you.

21 THE COURT: I think we've just -- no.

22 MR. ECKERT: I'm sorry, Your Honor.

23 THE COURT: Ms. Martin --

24 MR. ECKERT: Yes.

25 THE COURT: I was going to say, I think we've

1 just heard opening and closing statements with one
2 exception: the stipulation which you just handed up to
3 me. Was that what you were on your feet to deliver,
4 Ms. Martin?

5 MS. MARTIN: It was, Your Honor. May I?

6 THE COURT: Yes, you may. You provided it to
7 me.

8 MS. MARTIN: I do have a copy as well, Your
9 Honor.

10 THE COURT: Well, I have the original. I'll
11 give you that. That will be filed of record. I've
12 also inserted the exhibit number. You'll have to offer
13 the exhibit in evidence.

14 MS. MARTIN: Thank you, Your Honor. May I?

15 THE COURT: You may.

16 MS. MARTIN: Ladies and gentlemen of the
17 jury, there's a stipulation by and between counsel for
18 Mr. Smith that prior to March 22nd, 2019, Defendant
19 Donnie Smith had been convicted in a court of the
20 Commonwealth of Pennsylvania and/or the United States
21 District Court for the Eastern District of Pennsylvania
22 of a crime punishable by imprisonment for a term
23 exceeding one year. That is, he had been convicted of
24 a felony within the meaning of Title 18, United States
25 Code, Section 922(g)(1), and he had knowledge of this

1 conviction.

2 Government's Exhibit 60, the certified copy
3 of the conviction, is admitted into evidence in support
4 of this stipulated fact.

5 Your Honor, that concludes the stipulation
6 and I would offer Government's Exhibit 60 into
7 evidence.

8 THE COURT: Government Exhibit 60 is received
9 in evidence.

10 (Government Exhibit Number 60 received)

11 MR. PATTERSON: Your Honor, it is so
12 stipulated.

13 MS. MARTIN: Thank you.

14 THE COURT: All right. I think what is left
15 -- the government's evidence of the effect on
16 interstate commerce was introduced in the first part of
17 the trial.

18 MR. ECKERT: It was, Your Honor.

19 THE COURT: And this stipulation -- and
20 that's the fourth element. The stipulation covers the
21 first element of the offense, that Donnie Smith had
22 been convicted of a felony. That is a crime punishable
23 by imprisonment for a term exceeding one year. And the
24 third element, that is, at the time the defendant
25 possessed the firearm, he knew he had been convicted of

1 a crime punishable by imprisonment for a term exceeding
2 one year, leaving only the second element.

3 And the second element is that after this
4 conviction, Donnie Smith knowingly possessed the
5 firearm described in Count III of the indictment.

6 That's the issue. And I think -- first, the
7 government doesn't intend to offer any additional
8 evidence, does it?

9 MR. ECKERT: That is correct, Your Honor. We
10 do not. Thank you.

11 THE COURT: So I think it's appropriate to
12 have a brief closing on that issue or on any issue.
13 And -- or did you intend to do something else?

14 MR. ECKERT: No, Your Honor. I'm happy to
15 offer a 20-second closing, if I may.

16 THE COURT: Well, I think the only issue
17 remaining after the stipulation and receipt of the
18 evidence on interstate commerce in the first part of
19 the trial, the only issue remaining is Defendant's
20 knowing possession of the firearm described in Count
21 III of the indictment, the store gun. And you may
22 proceed, Mr. Eckert.

23 MR. ECKERT: Thank you, Your Honor.

24 Ladies and gentlemen of the jury, we would
25 just ask to rely on the store video. When the

1 defendant, Mr. Smith, he took the store gun from the
2 complaining witness, Mr. Ventura, he walked out of the
3 -- eventually walked out of the store with it, he got
4 into his car and he drove off. During that entire
5 time, he was in actual possession of the gun. If at
6 any point you find that he left that gun on the
7 floorboard of the car where it was recovered by the
8 police, that would be constructive possession and that
9 would meet the element beyond a reasonable doubt.

10 Just want to address the interstate nexus.
11 That was the gentleman, Special Agent Resnik, from the
12 Bureau of Alcohol, Tobacco and Firearms. He was the
13 expert witness who researched the place that
14 manufactured the gun and that was the country of
15 Austria, imported into Georgia, recovered here in
16 Philadelphia which would qualify as the interstate
17 nexus.

18 Thank you so much.

19 THE COURT: The government rests?

20 MR. ECKERT: We do, Your Honor.

21 THE COURT: Mr. Patt --

22 MR. PATTERSON: Your Honor, it's not the
23 intention of the defense to offer any evidence. And we
24 would rest.

25 THE COURT: Thank you.

1 You're going to wonder why Counts I and II
2 didn't move as quickly. But I'm going to instruct you
3 on the law with a very brief charge.

4 Now that you have completed your initial
5 deliberation, you must consider Count III of the
6 indictment. On February 3rd, 2020, I instructed you on
7 your role as jurors, the defendants' presumption of
8 innocence, the burden of proof on the government to
9 prove the essential elements of the charges against the
10 defendant beyond a reasonable doubt, how you consider
11 the evidence and the credibility or believability of
12 witnesses.

13 Those instructions also apply to your
14 deliberations on Count III of the indictment. As I've
15 said several times, the defendant, Smith, is charged in
16 Count III of the indictment with violating federal law.
17 Count III charges Defendant Smith with unlawful
18 possession of a firearm in violation of 18 United
19 States Code, Section 922. And it's a specific firearm.
20 It's identified in the indictment as the Glock and it's
21 also been referred throughout the trial as the "store
22 gun".

23
24 As I explained at the beginning of the trial,
25 an indictment is just a formal way of specifying the

1 exact crime the defendant is accused of committing. It
2 is simply a description of the charges against the
3 defendant. It is an accusation only. An indictment is
4 not evidence of anything and you should not give any
5 weight to the fact that the defendant has been indicted
6 in making your decision in this case.

7 Count III of the indictment charges Defendant
8 Smith with being a felon in possession of a firearm
9 which is a violation of federal law. In order to find
10 the defendant guilty of this offense, you must find
11 that the government proved each of the

12 following -- we had a little trouble counting
13 -- each of the following four elements beyond a
14 reasonable doubt. And I've already explained them in
15 reading the statement of the case at the beginning of
16 this part of the trial but I'll read them again:

17 First, that Donnie Smith had been convicted
18 of a felony. That is, a crime punishable by
19 imprisonment for a term exceeding one year;
20 Second, that after this conviction, Donnie Smith
21 knowingly possessed the firearm described in Count III
22 of the indictment;
23 Third, that at the time the defendant possessed the
24 firearm, he knew he had been convicted of a crime
25 punishable by imprisonment for a term exceeding one

1 year; and

2 Fourth, that Defendant Smith's possession was in or
3 affecting interstate commerce.

4 The government and the defendant have agreed
5 that prior to March 22nd, 2019, Defendant Donnie Smith
6 had been convicted in a court of the Commonwealth of
7 Pennsylvania and/or the United States District Court
8 for the Eastern District of Pennsylvania of a crime
9 punishable by imprisonment for a term exceeding one
10 year. That is, he had been convicted of a felony
11 within the meaning of 18 United States Code, Section
12 922(g)(1), and he had knowledge of this conviction.
13 Government Exhibit 60, the certified copy of
14 conviction, is admitted into evidence in support of
15 this stipulated fact as true. You should therefore
16 treat this fact as having been proved. You are not
17 required to do so, however, since you are the sole
18 judge of the facts.

19 The term "firearm" was defined in the first
20 part of the trial but I'm going to repeat that
21 definition now. The term "firearm" means any weapon
22 that will expel or is designed to or may readily be
23 converted to expel a projectile by the action of an
24 explosive. The term includes the frame or receiver of
25 any such weapon.

1 With respect to the prior conviction, the
2 parties have stipulated that Donnie Smith was convicted
3 of a crime in federal court which was punishable by
4 imprisonment for a term exceeding one year. The
5 parties have also stipulated that Donnie Smith had
6 knowledge of the conviction and that it occurred prior
7 to the time that he is alleged to have possessed the
8 firearm charged in the indictment.

9 You heard evidence, through a stipulation,
10 that Defendant was convicted before this incident in
11 the United States District Court for the Eastern
12 District of Pennsylvania of a crime punishable by
13 imprisonment for a term exceeding one year. This prior
14 conviction was brought to your attention because it
15 tends to establish one of the elements of the crime of
16 possession of a firearm by a convicted felon that's set
17 forth in the indictment. You are not to speculate as
18 to the nature of the conviction. You may not consider
19 the prior conviction in deciding whether Donnie Smith
20 was in knowing possession of the firearm that he is
21 charged in this case with possessing which is a
22 disputed issue in the case.

23 The fact that Defendant Smith was found
24 guilty of another crime on another occasion does not
25 mean he committed this crime on March 22nd, 2019 and

1 you must not use his guilt of the other crime as proof
2 of the crime charged in this case except for the one
3 element of this crime which I have mentioned. You may
4 find the defendant guilty of this crime only if the
5 government has proven beyond a reasonable doubt all of
6 the elements of the crime.

7 Now I'm going to define "knowing possession".
8 To establish the second element of the offense, the
9 government must prove that Donnie Smith possessed the
10 firearm in question. To "possess" means to have
11 something within a person's control. The government
12 does not have to prove that Donnie Smith physically
13 held the firearm, that is, that he had actual
14 possession of it. As long as the firearm was within
15 Donnie Smith's control, he possessed it. If you find
16 that Donnie Smith either had actual possession of the
17 firearm or had the power and intention to exercise
18 control over it even though it was not in Donnie
19 Smith's physical possession, that is, that Donnie Smith
20 had the ability to take actual possession of the object
21 when Smith wanted to do so, you may find that the
22 government has proven possession. Possession may be
23 momentary or fleeting.

24 The law also recognizes that possession may
25 be sole or joint. If one person alone possesses a

1 firearm, that is sole possession. However, more than
2 one person may have the power and intention to exercise
3 control over a firearm. That is called "joint
4 possession". If you find that Donnie Smith had such
5 power and intention then he possessed the firearm even
6 if he possessed it jointly with another.

7 Mere proximity to the firearm or mere
8 presence on a property where it is located or a mere
9 association with the person who does control the
10 firearm or the property is insufficient to support a
11 finding of possession. Proof of ownership of the
12 firearm is not required.

13 The government must prove that Donnie Smith
14 knowingly possessed the firearm described in the
15 indictment. This means that Donnie Smith possessed the
16 firearm purposely and voluntarily and not by accident
17 or mistake. It also means that Donnie Smith knew the
18 object was a firearm.

19 And now the charge on interstate commerce.
20 The fourth element that the government must prove
21 beyond a reasonable doubt is that the firearm specified
22 in the indictment was in or affecting interstate
23 commerce. This means that the government must prove
24 that at some time before Defendant's possession the
25 firearm had traveled in interstate commerce. It is

1 sufficient for the government to satisfy this element
2 by proving that at any time prior to the date charged
3 in the indictment, the firearm crossed the state lines.
4 The government does not need to prove that Donnie Smith
5 himself carried it across the state lines or to prove
6 who carried it across or how it was transported. It is
7 also not necessary for the government to prove that
8 Donnie Smith knew that the firearm had traveled in
9 interstate commerce.

10 In this regard, there has been evidence that
11 the firearm in question was manufactured in a different
12 -- or manufactured in a foreign country and that it
13 then thereafter traveled to Georgia in the United
14 States and was subsequently transported to
15 Pennsylvania. All of this happened before Defendant
16 Smith possessed the firearm -- or before he is charged
17 with possessing the firearm. It is the latter. All of
18 this happened before he is charged with possessing the
19 firearm. You are permitted to infer from this fact
20 that the firearm traveled in interstate commerce.
21 However, you are not required to do so.

22 Those are my instructions on the law. The
23 only remaining instruction relates to the verdict. And
24 I'll go over the verdict sheet with you and then I'll
25 talk to counsel.

1 The verdict sheet in this case is similar to
2 the verdict sheet you've already completed. It reads:
3 "The jury unanimously agrees to the following verdict
4 for Count III of the indictment as to Defendant Smith."
5 As I instructed you at the first part of the trial,
6 your verdict must be unanimous; all 12 of you must
7 agree.

8 Now a summary of Count III -- on Count III of
9 the indictment charging: "Possessing of a firearm by a
10 felon, that is, a Glock 26, 9 millimeter semiautomatic
11 pistol, bearing serial number BCXX649, loaded with
12 eight live rounds of ammunition (the "store gun") on or
13 about March 22nd, 2019, we, the jury, unanimously find
14 Defendant Donnie Smith" -- and there's a column
15 "guilty" and "not guilty", two lines, same format as
16 with the original verdict sheets. And the verdict
17 sheet also instructs: "After your foreperson has
18 completed this verdict form in accordance with the
19 instructions, the foreperson should sign and date the
20 form and the jury should return to the courtroom."
21 There's a line for a signature, initials and last name
22 and the date.

23 Counsel, do we need to go to sidebar?

24 MR. ECKERT: I do not, Your Honor.

25 MR. PATTERSON: No, Your Honor. No

1 objection.

2 THE COURT: Are there any objections to the
3 charge?

4 MR. ECKERT: No, Your Honor.

5 MR. PATTERSON: No objection. No objection
6 to the charge, Your Honor.

7 THE COURT: Fine. Then what we will do,
8 we'll give you three copies of the charge. Do we have
9 them in the courtroom?

10 THE CLERK: Yes.

11 THE COURT: After a week and two days. I
12 mean, that is just a -- I'm sorry. It's not really a
13 laughing matter but that was a funny gesture. It's a
14 very serious case so I don't want us to get jovial
15 about it.

16 And is there one verdict form? Fine. Then
17 let's excuse the jury to begin their deliberations. I
18 don't know how long it will take you but if you get
19 close to 4:30 and you haven't reached a verdict, send
20 me a note. Tell me what you want to do.

21 THE CLERK: All rise.

22 Do you want the stipulation to go back?
23 Stipulation?

24 THE COURT: Yes.

25 THE COURT: Stipulation and exhibit, Ms.

1 Hull.

2 (Jury out)

3 THE COURT: Be seated, everyone.

4 I don't think there's anything else we have
5 to do. We're closing in on the end. I want you all to
6 stay. I know you will, Mr. Patterson. I don't think
7 it will take very long for them to reach a verdict.
8 Everything was practically stipulated to.

9 All right. I think I'm going off the bench.
10 And, Michael, you'll call me when they reach a verdict.

11 THE REPORTER: All rise.

12 THE COURT: You may go about your business,
13 everyone.

14 (Off the record from 3:27 p.m. until 3:38
15 p.m.)

16 THE CLERK: All right. Are we ready to bring
17 the jury back?

18 THE COURT: Oh, have they reached a verdict?

19 THE CLERK: Yes.

20 THE COURT: Oh, I missed it.

21 THE CLERK: I'm showing all counsel are here.

22 THE COURT: Good. Then we can show the jury
23 verdict -- I'm sorry. Show the jury in.

24 (Pause)

25 THE CLERK: All rise.

1 (Jury in)

2 THE COURT: Be seated, everyone.

3 Ladies and gentlemen, I've been told that
4 you've reached a unanimous verdict as to Count III for
5 Defendant Smith. Is that correct?

6 THE FOREPERSON: That is correct, Your Honor.

7 THE COURT: Thank you. Ms. Hull, will you
8 receive the jury verdict form, please? Thank you.

9 (Pause)

10 THE COURT: The verdict form has been
11 properly completed and signed and dated. Ms. Hull,
12 will you publish the verdict?

13 THE CLERK: Members of the jury, please rise.
14 And will the foreperson please answer?

15 The jury unanimously agrees to the following
16 verdict for Count III of the indictment as to Defendant
17 Donnie Smith. Count III of the indictment charging
18 possession of a public firearm by a felon, that is, a
19 Glock 26, 9 millimeter semiautomatic pistol bearing
20 serial number BCXX649 loaded with eight live rounds of
21 ammunition (the "store gun") on or about March 22nd,
22 2019, we, the jury, unanimously find the defendant
23 Donnie Smith guilty or not guilty?

24 THE FOREPERSON: Guilty.

25 THE COURT: Thank you.

1 THE CLERK: Thank you.

2 THE COURT: Is there a request?

3 MR. ECKERT: Not from the government, Your
4 Honor.

5 MR. PATTERSON: No request, Your Honor.
6 Thank you

7 THE COURT: Fine. Ms. Hull, will you publish
8 the verdict?

9 THE CLERK: Please remain standing. Harken
10 unto your verdict as the Court has recorded it in the
11 issue joined in the indictment number 19-350-01 between
12 the United States of America and Donnie Smith:

13 You find the defendant guilty as to Count I
14 (sic) and so say you all -- Count III. So sorry.
15 Count III.

16 THE COURT: Count III, yes.

17 THE FOREPERSON: We do.

18 THE CLERK: Thank you.

19 THE COURT: And so say you all.

20 THE JURY: Yes.

21 THE COURT: Fine. Ms. Hull, will you
22 retrieve the verdict sheet?

23 You may be seated, ladies and gentlemen.

24 This completes your jury service. It was a
25 significant case, a little complicated because of the

1 -- we call it bifurcation, the splitting, of the two
2 parts of the case and the fact that there were three
3 defendants. That complicated things a little bit.

4 I watched you during the entire trial and you
5 were, I would say, paying rapt attention to the
6 evidence. It was obvious to me that you were engrossed
7 in what was going on and that you were true to your
8 oath listening to the evidence, reading whatever was
9 written and doing what had to be done to decide the
10 case fairly and impartially. And you should feel very
11 good about that.

12 Jury service is -- it's an obligation of
13 citizenship. I guess that's one way to put it. But
14 it's much more than that. It's what makes our justice
15 system run. And our justice system runs this way
16 throughout the country. There are courts like this
17 one, district courts, trial courts, where criminal
18 cases, like this one and any other criminal case about
19 which you might have read, and civil cases as well, are
20 tried before juries just like you. The system would
21 not work at all if people like you were not willing to
22 come to court to give of their time and some
23 inconvenience and to become part of the justice system.
24 You did that and you should feel very good about that.
25 You did your job.

1 It's a difficult job because you're talking
2 about someone's liberty. And I know you took it
3 seriously. At least, that was based on -- that
4 statement was based on my observation of the way you
5 proceeding during the trial.

6 I told you during the trial that you could
7 not discuss the case with anyone and I'm relieving you
8 of that restriction. You may discuss the case with
9 anyone you choose to discuss it with. But I have one
10 word of caution. Just a word of caution, not an order
11 or an instruction. If you discuss the case, do not
12 share with others the opinions you heard stated by
13 other members of the jury. You should feel free to
14 discuss your thoughts, what you said, but not so much
15 what other jurors might have said during the course of
16 deliberations. Respect their privacy.

17 There's another aspect of the trial that I'm
18 going to focus on for just a moment. You now know how
19 criminal cases are tried in federal court starting with
20 jury selection, opening statements, presentation of
21 evidence and then closing arguments and jury
22 instructions. That's the way criminal cases are tried
23 in every federal court throughout the country. And
24 there are close to 100 of them.

25 It's a little different than what you see on

1 television. Someone in the back row doesn't ever stand
2 up and say I did it, Judge. Now you know how the
3 criminal justice system works for real. And I
4 encourage you to talk about how it works. Express your
5 views. Do you think it's fair? Do you think something
6 should be changed? And if you care to write to me
7 about that, I'd be happy to discuss it with you. But
8 it's something that I think far too few people know
9 anything about. And what they know about the criminal
10 justice system, they've gotten from television
11 programs. I'm talking about fiction not portions of
12 live trials. And if live trials are televised,
13 oftentimes, they're not televised opening to closing.
14 They're televised in snippets. So you don't really get
15 a picture of what's going on. You have that picture
16 now. And I encourage you to talk about it.

17 The parties join me in thanking you for your
18 jury service. You've been here now -- this is the
19 seventh day. I don't have to count. I'm sure you know
20 how many days you've been here. And it took a little
21 longer than we anticipated. But I saw no signs of
22 displeasure and that told me you were invested in what
23 you were doing which is exactly what was expected of
24 you.

25 Again, on behalf of all of our judges, the

1 whole court, we thank you for your jury service.

2 Ms. Hull, they're discharged from further
3 jury service?

4 THE CLERK: Absolutely.

5 THE COURT: Yes, absolutely. And so you need
6 do nothing further. If they need work slips, they will
7 get them in the mail?

8 THE CLERK: They already have their --

9 THE COURT: They already have their work
10 slips. She's been with me a long time. And she and
11 Mr. Cosgrove are very good at what they do.

12 You're excused from further jury service. I
13 want you to leave your juror notebooks in the jury
14 room. I'll see to it that they're shredded. We won't
15 read them.

16 I don't think anything else needs to be done.
17 Talk to counsel briefly, Mr. Eckert?

18 MR. ECKERT: Not from the government, Your
19 Honor. Thank you.

20 THE COURT: Mr. Patterson?

21 MR. PATTERSON: No, Your Honor. Thank you.

22 THE COURT: I'll come off the bench. I have
23 to take care of one little housekeeping chore. Won't
24 take me very long. And then I'll join those of you who
25 remain in the jury room to chat for just a little bit.

1 And with that, again, with my thanks, you're excused
2 from further jury service. I'll see you in just a few
3 minutes.

4 THE CLERK: All rise.

5 (Jury out)

6 THE COURT: Be seated, everyone.

7 Michael, the trial date, do you have it?
8 Pardon me? Smith's was the first. Just give me the
9 dates of the others and I can --

10 THE REPORTER: The 20th and the 21st of May
11 for the others.

12 THE COURT: Ask -- let me just look a bit
13 further. Yeah, sentencing. Tuesday, May 19th, 2020 at
14 12:45 p.m.

15 Mr. Smith, you were here when I spoke to Mr.
16 Stevens and Mr. Quinn but I'm going to repeat it --
17 what I said. I'm going to ask the United States
18 probation officer to conduct a pre-sentence
19 investigation. Among other things, he will interview
20 you or she will interview you. And, Mr. Patterson, I
21 direct that you be present. They'll ask you questions
22 about your background, the offenses of conviction and
23 other matters related to sentencing.

24 When the investigation is completed, the
25 probation officer will prepare a report. Copies will

1 be given to you and to Mr. Patterson and to government
2 counsel even before I get them. You'll have an
3 opportunity to review them with Mr. Patterson and
4 object. For example, the probation officer will make
5 recommendations regarding the sentencing guidelines
6 which I consider among numerous other factors in
7 imposing sentence. So you can object. You can ask me
8 to add things to the report, remove things from the
9 report, correct errors in the report. Any objections
10 and any of those requests will be addressed by me at
11 sentencing.

12 At sentencing, you have a right to speak to
13 me about anything you deem appropriate. It's called
14 your right of allocution. And you can also present
15 evidence, testimony from witnesses or letters or other
16 writings from witnesses who hopefully would say good
17 things about you. And Mr. Patterson will be able to
18 argue as to an appropriate sentence. The government
19 has those same rights.

20 All right. I have nothing further at this
21 time. Mr. Eckert?

22 MR. ECKERT: Not from us, Your Honor. Thank
23 you.

24 MR. PATTERSON: Nothing, Your Honor.

25 THE COURT: Mr. Patterson?

1 MR. PATTERSON: Thank you.

2 THE COURT: Well, then Court's adjourned.

3 Defendant is remanded to the custody of the U.S.

4 marshals.

5 THE REPORTER: All rise.

6 THE COURT: You may go about your business.

7 (Court is adjourned)

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C E R T I F I C A T I O N

I, Lisa Beck, certify that the foregoing transcript is
a true and accurate record of the proceedings.



Lisa Beck

Date: November 9, 2020

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[& - answered]

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